

IN THE UNITED STATES DISTRICT
COURT WESTERN OF ROANOKE
VIRGINIA

KEVIN A. CANADA #1050088
PLAINTIFF

- VS -

RICKY FANNIN

DEFENDANT (S), ET AL.

OFFICER, J. NAE, OFFICER J. BARRETT, AND
OFFICER, R. GIBSON

COMPLAINT * JURY TRIAL DEMANDED

CLERK'S OFFICE U.S. DIST. COURT
AT ROANOKE, VA
FILED

SEP 29 2010

JULIA C. DUNN, CLERK
BY: *[Signature]*
DEPUTY CLERK

7:10-CV-0432

(7:10-CV-00432)

* PRELIMINARY STATEMENT

THIS IS A " #42 U.S.C 1983 CIVIL RIGHTS ACTION"
FILED BY DEFENDANT, KEVIN A. CANADA #
1050088, PRO SE A PRISONER CURRENTLY
HOUSED AT (RED UNION STATE PRISON)
FOR PUNITIVE, DECLARATORY, AND COMPENSATORY
DAMAGES AS WELL AS INJUNCTIVE
RELIEF UNDER USC 42 1983. FOR
EXCESSIVE FORCE IN VIOLATION OF THE
U.S. 8TH AMENDMENT CONSTITUTION FOR
BEING MALICIOUSLY AND SADISTICALLY
ATTACKED AND SHOT. AS WELL AS FOR
CRUEL AND UNUSUAL PUNISHMENT IN

PRELIMINARY STATEMENT, CONTINUED

VIOLATION OF THE U.S. 8th AMENDMENT CONSTITUTION AND 14th AMENDMENT CONSTITUTION FOR THE UNNECESSARY AND WANTON INFLECTION OF PAIN.

* JURISDICTION

#1. THIS COURT HAS THE JURISDICTION OVER PLAINTIFF'S CLAIM OF VIOLATION OF HIS FEDERAL CONSTITUTIONAL RIGHTS UNDER #42 U.S.C. § 1331 (A) AND § 1343

* PARTIES

#2. THE PLAINTIFF, KEVIN A. CANADA #1050088 WAS INCARCERATED, AND STILL INCARCERATED AT "RED OXION STATE PRISON" DURING THE EVENT / INCIDENT DESCRIBED IN HIS #42 U.S.C 1983 CIVIL RIGHTS COMPLAINT.

#3. THE DEFENDANT(S) RICKY FANNIN WAS IN FACT A CORRECTIONAL OFFICER AT "RED OXION STATE PRISON" DURING THE EVENT / INCIDENT THAT OCCURRED ON APRIL 17th, 2010 BUT IS NO LONGER EMPLOYED BY "RED OXION STATE PRISON" DUE TO BEING (FIRED)

#3, PARTIES CONTINUED

for his sadistic and malicious attack upon / against Plaintiff, KELVIN A. CANADA #1050088 ON APRIL 17th, 2010 IS BEING SUED IN HIS INDIVIDUAL CAPACITY.

#4. The Defendant(s) officer J. NAJE WAS AND STILL IS AN OFFICER EMPLOYED BY "RED OXION STATE PRISON" DURING THE EVENT / INCIDENT THAT OCCURRED ON APRIL 17th, 2010 IS BEING SUED IN HIS INDIVIDUAL CAPACITY.

#5. The Defendant(s) officer J. BARRETT WAS AND STILL IS TO MY KNOWLEDGE EMPLOYED BY "RED OXION STATE PRISON" DURING THE EVENT / INCIDENT THAT OCCURRED ON APRIL 17th, 2010 IS BEING SUED IN HIS INDIVIDUAL CAPACITY.

#6. The Defendant(s) officer R. GIBSON WAS AND STILL IS EMPLOYED BY "RED OXION STATE PRISON" DURING THE EVENT THAT OCCURRED ON APRIL 17th, 2010 IS BEING SUED IN

#6, PARTIES CONTINUED

his individual capacity.

* **FACTS**

#1. ON APRIL 17th 2010 PLAINTIFF WAS ESCORTED TO C6 REC-YARD TO OBTAIN HIS MANDATORY 1-HOUR RECREATION FOR THAT DAY SATURDAY.

#2. WHILE PLAINTIFF WAS AT RECREATION ON C6 RECREATION YARD PLAINTIFF WAS APPROACHED BY OFFICER RICKY FANNIN CONCERNING SOME DICE.

#3. DEFENDANT RICKY FANNIN AFTER ARRIVING AT PLAINTIFF'S REC-CAGE HE ASKED PLAINTIFF TO GIVE HIM THE DICE THAT HE VIEWED PLAINTIFF HAVING FROM A DISTANCE.

#4. PLAINTIFF RESPONDED BY SAYING HE'S NOT GIVING DEFENDANT NO DICE, THAT'S WHEN DEFENDANT STARTED VERBALLY THREATENING TO BEAT PLAINTIFF'S ASS IF PLAINTIFF DON'T GIVE HIM THOSE DICE.

FACTS, CONTINUED

- #5. PLAINTIFF RESPONDED BY SAYING TO THE DEFENDANT RICKY FANNIN THAT "HE'S NOT GOING TO DO NOTHING TO HIM BECAUSE I HAVEN'T DID NOTHING WRONG".
- #6. DEFENDANT RICKY FANNIN KEPT ON WITH THE THREATS, AND AT THAT POINT HE THEN INSTRUCTED DEFENDANT(S) J. BARRETT & R. GIBSON TO GIVE HIM THE KEY TO THE REC - CAGE LOCK
- #7. DEFENDANT(S) J. BARRETT AND R. GIBSON IGNORED RICKY FANNIN'S REQUEST AND TOOK ANOTHER PRISONER BACK INSIDE TO HIS CELL BECAUSE THE 1-HOUR REC HAD BEEN COMPLETE.
- #8. WHILE DEFENDANT(S) J. BARRETT AND R. GIBSON WAS ESCORTING THIS PRISONER BACK INTO C6-POD DEFENDANT RICKY FANNIN REMAINED IN FRONT OF PLAINTIFF REC CAGE CONSTANTLY THREATENING HIM.

facts, CONTINUED

- #9 When DEFENDANT(S) BARRETT AND R. GIBSON RETURNED FROM ESCORTING THAT PRISONER BACK INSIDE C6-P00 THEY CAME OVER AND JOINED RICKY FANNIN IN FRONT OF PLAINTIFF'S REC-CAGE.
- #10 While DEFENDANT(S) R. GIBSON WAS ATTEMPTING TO RESTRAINED PLAINTIFF DEFENDANT(S) RICKY FANNIN TOOK THE REC-CAGE KEY FROM OFFICER R. GIBSON AND OPENED PLAINTIFF REC-CAGE WHILE THE PLAINTIFF WAS UN-RESTRAINED TO ASSAULT AND ATTACK PLAINTIFF.
- #11 DEFENDANT(S) BARRETT AND GIBSON STOOD AND WATCHED OFFICER RICKY FANNIN DELIBERATELY TAKE THIS REC-CAGE LOCK OFF PLAINTIFF'S REC-CAGE KNOWING THAT THIS IS A TRANSGRESSION OF POLICY AND SECURITY PROTOCOL WITHOUT INTERVENING.

FACTS, CONTINUED

#12. AFTER DEFENDANT [REDACTED] RICKY FANNIN DELIBERATELY TOOK THIS LOCK OFF OF PLAINTIFF REC-CAGE [REDACTED] WITH THE SOLE INTENT TO ATTACK AND ASSAULT PLAINTIFF BASED ON RICKY FANNIN PREVIOUS THREATS WHEN PLAINTIFF REFUSED TO GIVE RICKY FANNIN THE DICE. DEFENDANT RICKY FANNIN SWUNG OPEN PLAINTIFF REC-CAGE DOOR AND HIT PLAINTIFF ON HIS LEFT SHOULDER.

#13. WHILE PLAINTIFF WAS DEFENDING HIMSELF FROM THIS ASSAULTIVE AND MALICIOUS ATTACK PLAINTIFF WAS EXCESSIVELY AND SADISTICALLY SHOT 3 TO 4 TIMES BY DEFENDANT(S) OFFICER J. NAJE FROM THE GUARD-TOWER ONCE IN THE FACE UNDER HIS LEFT EYE, ONCE ON THE RIGHT INNER FORE-ARM, ONCE ON THE RIGHT-HIP & ONCE ON THE RIGHT-SHIN.

FACTS, CONTINUED

#14. PLAINTIFF WAS RESTRAINED BY OTHER OFFICERS AND ESCORTED TO THE MEDICAL DEPT. TO BE TREATED FOR HIS INJURIES FROM THE ASSAULT & GUN-SHOT WOUNDS.

#15. PLAINTIFF THEN FILED COMPLAINT # 01323 CONCERNING THIS SADISTIC AND ASSAULTIVE ATTACK THAT WAS RESPONDED TO BY T. ADAMS ON APRIL 23, 2010. **SEE EXHIBIT #17**

#16. PLAINTIFF THEN FILED GRIEVANCE (EVE I # 620-10-REG-00354 ON APRIL 26th, 2010 THAT WAS **"FOUNDED"** BY WARDEN TRACY RAY ON MAY 25th, 2010 **SEE EXHIBIT #18 & #19**

#17. PLAINTIFF WAS NOT SATISFIED WITH TRACY RAY RESOLUTION ON GRIEVANCE # 620-10-REG-00354 (EVE I RESPONSE AND APPEALED IT TO (EVE II REGIONAL DIRECTOR JOHN GARMAN ON MAY 26th, 2010. **SEE EXHIBIT #19 (A)(B)(1)(2)(3)**

FACTS, CONTINUED

#18. PLAINTIFF RECEIVED CEVEI II RESPONSE
SEE EXHIBIT #20 BACK FROM REGIONAL DIRECTOR A
MONTH AND A HALF LATER AND
WASNT SATISFIED WITH UPHOLDING
CEVEI I (FOUNDED) RESOLUTION
AND DECIDED TO FILE A (1983
CIVIL RIGHTS COMPLAINT.)

* CLAIM

#1. ON APRIL 17TH, 2010 THE ASSAULTIVE,
AND SADISTIC ACT OF OFFICER
RICKY FANNIN CAUSED PLAINTIFF
KEVIN A. CANADA #1050088 TO
SUSTAINED GUN-SHOT LACERATION
TO HIS LEFT-EYE UNDERNEATH,
RIGHT-INNER FORE-ARM, RIGHT HIP,
AND RIGHT SHIN, WHEN RICKY
FANNIN DELIBERATELY TOOK THE
REC-CAGE LOCK OFF OF PLAINTIFF
REC-CAGE TO ASSAULT AND ATTACK
PLAINTIFF. PLAINTIFF WAS FORCED TO
DEFEND HIMSELF AGAINST THIS
DELIBERATE ASSAULTIVE AND
SADISTIC ATTACK. WHILE DOING

CLAM #1, CONTINUED.

SO PLAINTIFF WAS SADISTICALLY AND MALICIOUSLY SHOT IN THE FACE

UNDER HIS LEFT EYE CENTIMETERS FROM ACTUALLY HAVING HIS ENTIRE LEFT-EYE SHOT OUT, IN HIS

RIGHT HIP, IN HIS RIGHT INNER FORE-ARM AND RIGHT-SHIN BY GUN-TOWER "OFFICER J. NA/E"

SEE EXHIBIT #1, PLAINTIFF

EXPERIENCED EXTREME PAIN IN HIS LEFT-EYE, RIGHT-INNER FOREARM AND RIGHT-HIP WHICH HE FILED FOR

SICK-CALL SEE EXHIBIT #2 ON

APRIL 18TH, 2010 TO RECEIVE MEDICAL TREATMENT. NO MEDICAL TREATMENT WAS GIVEN THAT DAY APRIL 18TH,

2010, SO PLAINTIFF FILED EMERGENCY GRIEVANCE # 080037 ON APRIL

19TH, 2010 AT 2:11 PM TO ACQUIRE SOME IMMEDIATE MEDICAL TREATMENT FOR THE INJURIES HE SUSTAINED

FROM THE [REDACTED] ASSAULT AND GUN-SHOT WOUNDS [REDACTED] ON

APRIL 17TH, 2010, BECAUSE THE "400 MY MOTIN" & THE "AKWA TEAR" EYE DROPS WASN'T MITIGATING THE

CLAIM #1, CONTINUED

THE EYE, FORE-ARM, AND HIP PAIN.
SEE EXHIBIT #3, ON APRIL 20TH, 2010 THE 2-DAYS MOTRIN PRESCRIPTION HAD EXPIRED AND PLAINTIFF WAS STILL EXPERIENCING EXTREME PAIN IN HIS LEFT-EYE, RIGHT FORE-ARM & RIGHT HIP AND FILED ANOTHER EMERGENCY GRIEVANCE # 080034 **SEE EXHIBIT #4** TO ACQUIRE SOME MEDICAL TREATMENT TO MITIGATE HIS ONGOING PAIN FROM APRIL 17TH, 2010. PLAINTIFF RECEIVED A 5-DAYS PRESCRIPTION FOR MOTRIN ON APRIL 21ST, 2010 **SEE EXHIBITS #5 & #5(A)** TO MITIGATE HIS ONGOING PAIN. AT THIS POINT PLAINTIFF STILL HAVEN'T BEEN SEEN BY A DOCTOR YET REGARDING HIS INJURIES HE SUSTAINED FROM THE ASSAULTIVE ATTACK AND GUN-SHOT WOUNDS ON APRIL 17TH, 2010, SO PLAINTIFF FILED AN EMERGENCY GRIEVANCE # 079408 ON APRIL 28TH, 2010 AT 2:30 PM **SEE EXHIBIT #6** TO SEEK IMMEDIATE MEDICAL TREATMENT AND TO INQUIRE WHY HAVE IT TAKEN SO LONG FOR PLAINTIFF TO RECEIVE

CLAIM #1, CONTINUED

MEDICAL TREATMENT FOR HIS APRIL 17TH, 2010 GUN-SHOT WOUNDS INJURIES. BECAUSE THE ONLY TREATMENT PLAINTIFF HAD RECEIVED WAS EVALUATIONS FROM NURSE L. MULLINS. ON MAY 7TH, 2010 PLAINTIFF FILED ANOTHER EMERGENCY GRIEVANCE #081904 AT 7:03 AM, SEE EXHIBIT #7 SEEKING IMMEDIATE MEDICAL TREATMENT TO MITIGATE HIS APRIL 17TH, 2010 INJURIES AND TO INQUIRE ONCE AGAIN WHY HAVEN'T HE STILL HAVEN'T [REDACTED] BEEN SEEN BY A DOCTOR FOR HIS APRIL 17TH, 2010 INJURIES. PLAINTIFF WAS FINALLY SEEN BY DR. BALL ON MAY 13TH, 2010 CONCERNING HIS APRIL 17TH, 2010 GUN-SHOT WOUNDS AND WAS PRESCRIBED "PREDNISONE" MEDICATION TO TREAT PLAINTIFF'S INJURED LEFT-EYE AND THE PAIN FROM PLAINTIFF'S INNER RIGHT FOREARM AND RIGHT HIP. SEE EXHIBITS #8 & #9 AND ALSO RECOMMENDED TO BE SEEN BY THE "OPTOMETRIST" CONCERNING HIS LEFT-EYE INJURY.

CLAIM # 1, CONTINUED

PLAINTIFF AFTER BEING SEEN BY NURSE PRACTICER BALL AND PRESCRIBED "PREDNISONE" THE PAIN IN PLAINTIFF'S LEFT-EYE, RIGHT INNER FORE-ARM AND RIGHT HIP SEMI-SUBSIDED, HOWEVER PLAINTIFF LEFT-EYE KEEP GIVEN HIM PROBLEMS SO ON

JUNE 6th, 2010 SEE EXHIBIT #10 PLAINTIFF SUBMITTED ANOTHER SICK-CALL REQUEST TO BE SEEN BY THE DOCTOR AGAIN AND WAS EVALUATED BY NURSE DANIELS WHO DOCUMENTED THAT PLAINTIFF'S RIGHT-ARM STILL CONTAINS A RED MARK AND THAT PLAINTIFF'S LEFT-EYE WAS IN DEED STILL TWITCHING INVOLUNTARILY FROM THE APRIL 17th, 2010 INJURES. ON

JUNE 23rd, 2010 SEE EXHIBITS # 11 & #12 PLAINTIFF WAS FINALLY SEEN BY THE OPTOMETRIST AND WAS DETERMINED BY THE OPTOMETRIST THAT PLAINTIFF'S LEFT-EYE SUFFERED SOME DAMAGE AND THAT PLAINTIFF NEEDED EYE-CLASSES SOLELY BECAUSE OF DAMAGE TO HIS "LEFT-EYE" NOT PLAINTIFF'S RIGHT-EYE.

CLAIM #1, CONTINUED

PLAINTIFF WAS THEN PRESCRIBED
 EYE-GLASSES BY "OPTOMETRIST REPCO"
 ALL THE [REDACTED] INJURIES
 MENTIONED THROUGHOUT (CLAIM #1)
 DERIVED FROM DEFENDANT(S)
 RICKY FANNIN'S RECKLESS,
 ASSAULTIVE ATTACK UPON / AND
 AGAINST PLAINTIFF ON APRIL 17TH,
 2010. POLICY PROTOCOL SPECIFICALLY
 MANDATES THAT "ALL SEGREGATED
 PRISONERS ARE TO BE FIRST
 HAND-CUFFED, THEN SHACKLED BEFORE
 THEY ARE REMOVED FROM THEIR
 CELL, SHOWER OR RECREATION." THE
 ONLY PRISONERS THAT'S NOT
 SUBJECTED TO THIS PRISON POLICY
 PROTOCOL ARE PRISONERS THAT'S
 IN PROGRESSIVE-HOUSING PHASE #2,
 AND PRISONERS THAT ARE CLASSIFIED
 AS "CADRES". PLAINTIFF IS A
 SEGREGATION PRISONER AND THEREFORE
 SHOULD HAVE BEEN SHACKLED AND
 HANDCUFFED BEFORE DEFENDANT
 RICKY FANNIN DELIBERATELY TOOK
 THE REC-CAGE LOCK COMPLETELY

PAGE #14

CLAIM #1, CONTINUED

off PLAINTIFF REC-CAGE, which clearly indicates that DEFENDANT "RICKY FANNIN" INTENTIONS WAS MALICIOUS, ASSAULTIVE, SADISTIC when he deliberately took the rock off PLAINTIFF'S REC-CAGE which CAUSED the PLAINTIFF to defend himself which LEAD to PLAINTIFF wrongfully getting shot 3 to 4 TIMES CAUSING the SERIOUS INJURIES MENTIONED throughout CLAIM #1. SUBJECTING PLAINTIFF to "EXCESSIVE FORCE", "CRUEL AND UNUSUAL PUNISHMENT", AND A "DEPRIVATION OF SERIOUS OR SIGNIFICANT PAIN AND INJURIES" IN VIOLATION of PLAINTIFF'S UNITED STATES 8th AND 14th AMENDMENT RIGHTS.

* CLAIM #2

ON April 17th, 2010 while defending myself AGAINST DEFENDANT "RICKY FANNIN" ASSAULTIVE AND SADISTIC ATTACK DEFENDANT "J. NALE" SADISTICALLY AND EXCESSIVELY shot PLAINTIFF

CLAIM #2, CONTINUED

KELVIN A. CANADA #1050688 MULTIPLE TIMES CAUSING PLAINTIFF TO SUSTAIN A LASCERATED LEFT-EYE UNDERNEATH, A LASCERATED INNER RIGHT FOREARM, A LASCERATED RIGHT-HIP, AND A LASCERATED RIGHT-SHIN (VIA) GUN-SHOTS FIRED BY DEFENDANT FROM THE YARD-GAARD-TOWER. DEFENDANT J. NAJE IS RESPONSIBLE FOR THE SAFETY AND SECURITY OF BOTH PRISONERS AND OFFICERS WHILE MAINTAINING THE SECURITY POST AT THE C&D SIDE GAARD-TOWER. NEVERTHELESS DEFENDANT "J. NAJE" TOOK THE LIBERTY TO SADISTICALLY AND EXCESSIVELY [REDACTED] SHOOT PLAINTIFF WHILE PLAINTIFF WAS BEING [REDACTED] SADISTICALLY AND ASSAULTIVELY ATTACKED BY HIS CO-WORKER, DEFENDANT "RICKY FANNIN" WHEN PLAINTIFF FILED "COMPLAINT # 01866" ON 5-1-10 [REDACTED] TO WARDEN TRACY RAY ABOUT HIS ANCILLARY J. NAJE SADISTIC AND EXCESSIVE FORCE MALFEASANCE FROM THE APRIL 17TH, 2010 INCIDENT

CLAIM #2, CONTINUED

THAT COMPLAINT #01866 WAS INTERCEPTED BY INVESTIGATOR T. ADAMS "SEE EXHIBIT #13" AND T. ADAMS RESPONDED TO THIS COMPLAINT #01866 ON 5-14-10 [REDACTED] STATING THAT "OFFICER J. NAJE WAS DOING HIS JOB AND DID NOT KNOW THE INCIDENT HAD STARTED", PLAINTIFF THEN FILED REGULAR GRIEVANCE ON 5-16-10 "SEE EXHIBIT #14" STATING THAT IF DEFENDANT J. NAJE WAS DOING HIS JOB AS THE GARD-TOWER OFFICER HE WOULD OF SEEN THAT [REDACTED] IT WAS HIS CO-WORKER R. FANNIN TRYING TO ASSAULT AND ATTACK ME BY TAKEN THE REC-CAGE LOCK OFF MY CAGE. HOWEVER THIS REGULAR GRIEVANCE WAS RETURNED TO PLAINTIFF BY ROSP / GRIEVANCE COORDINATOR FANNIE TAYLOR ON 5-19-10 "SEE BACK / EXHIBIT #14" STATING THAT THIS GRIEVANCE CAN NOT BE PROCESSED DUE TO THE 30-DAY FILING PERIOD EXPIRING.

CLAIM #2, CONTINUED

PLAINTIFF filed a letter to the
 REGIONAL ombudsman **see Exhibit #15**
 enclosed with the UN-processed
 GRIEVANCE (Exhibit #14) stating
 that ROSP / GRIEVANCE Dept is
 REFUSING to PROCESS (Exhibit #14)
 filed ON 5-16-10 for failing
 to meet the "30-days filing period
 statute of limitation" when it's
 obviously clear that PLAINTIFF
 did in fact file this GRIEVANCE
 (Exhibit #14) a full-day BEFORE
 the 30-day expiration date
 ON 5-16-10 IN ACCORDANCE WITH
 the DOP 866.1 **IV**, (A) SECTION # (1)
 which states verbatim "GRIEVANCES
ARE TO BE SUBMITTED WITHIN
30-DAYS FROM THE DATE OF
OCCURRENCE" AS YOU CAN
 SEE FROM (Exhibit #14) this
 GRIEVANCE WAS SUBMITTED ON
 5-16-10 the 29th day **█**
 from the April 17th, 2010
 incident therefore this GRIEVANCE
 (Exhibit #14) should have BEEN
 PROCESSED. PAGE #18

CLAIM #2, CONTINUED

HOWEVER THE REGIONAL OMBUDSMAN
 WRONGFULLY UPHOLD ROSP GRIEVANCE
 DEPT. DECISION OF NOT PROCESSING
 PLAINTIFF GRIEVANCE (EXHIBIT #14)
 FILED ON 5-16-10. SO AFTER
 RECEIVING THIS RESPONSE BACK ON
 5-27-10 PLAINTIFF THEN FILED
 A LETTER ENCLOSED WITH THE
 EXHIBIT #13 AND #14 RESPONSE
 TO REGIONAL DIRECTOR, JOHN
 GARMAN "SEE EXHIBIT #16"
 EXPLAINING TO HIM THAT HIS
 ANCILLARIES ROSP GRIEVANCE COORDINATOR
 F. TAYLOR, AND REGIONAL OMBUDSMAN
 K. AUSTIN [REDACTED] WRONGFULLY
 FAILED TO PROCESS GRIEVANCE
 FILED ON 5-16-10 (EXHIBIT #14)
 PROHIBITING PLAINTIFF FROM
 "EXHAUSTING HIS INSTITUTIONAL
 REMEDIES" IN COMPLIANCE WITH
 THE "PRISON LITIGATION REFORM ACT"
 NEVERTHELESS REGIONAL DIRECTOR
 ALSO BIASLY AND WRONGFULLY
 UPHOLD THIS BLATANT POLICY
 ERROR AND NEVER PROCESSED
 PLAINTIFF GRIEVANCE.

CLAIM #2, CONTINUED

SO BEING THAT DEFENDANT J. NAJE
 SADISTIC AND EXCESSIVE FORCE MAINTENANCE
 WAS NEVER RECTIFIED ON AN
 INSTITUTIONAL LEVEL TO COMPENSATE
 PLAINTIFF FOR THE INJURIES HE
 SADISTICALLY AND EXCESSIVELY INFLICTED
 AGAINST PLAINTIFF ON APRIL 17TH,
 2010. PLAINTIFF hereby file this
 CLAIM AGAINST [REDACTED] DEFENDANT J. NAJE
 FOR EXCESSIVE FORCE, AND CRUEL AND
 UNUSUAL PUNISHMENT IN VIOLATION OF
 PLAINTIFF 8th AMENDMENT CONSTITUTIONAL
 RIGHTS AND FOR PROHIBITING THE
 INFLICTION OF CRUEL AND UNUSUAL
 PUNISHMENT IN VIOLATION OF
 PLAINTIFF'S 14th AMENDMENT
 CONSTITUTIONAL RIGHTS. DEFENDANT
 [REDACTED] J. NAJE WAS THE C&D SIDE
 GUARD TOWER OFFICER AND WAS
 VERY COGNITIVE OF HIS CO-WORKER
 RICKY FANNIN ASSAULTIVE AND
 SADISTIC ATTACK AGAINST HIM BY
 WATCHING [REDACTED] DEFENDANT R. FANNIN
 DELIBERATELY TAKEN THE LOCK OFF
 PLAINTIFF'S REC-CAGE TO ASSAULT
 AND ATTACK PLAINTIFF.

CLAIM #2, CONTINUED

PLAINTIFF POSED NO THREAT TO SECURITY BECAUSE PLAINTIFF WAS BEING SADISTICALLY AND ASSAULTIVELY ATTACKED BY DEFENDANT J. NAE CO-WORKER "R. FANNIN" AND BECAUSE OF THIS SADISTIC AND ASSAULTIVE ATTACK PLAINTIFF WAS COMPELLED TO DEFEND HIMSELF. WHILE PLAINTIFF WAS DEFENDING HIMSELF DEFENDANT J. NAE EXCESSIVELY AND SADISTICALLY SHOT THE PLAINTIFF WHO WAS THE ONE THAT WAS ACTUALLY BEING ATTACKED. BY HIS CO-WORKER (R. FANNIN) CAUSING PLAINTIFF TO SUSTAIN SERIOUS LACERATION UNDER HIS LEFT-EYE, INNER RIGHT FORE ARM, RIGHT-HIP AND RIGHT-SHIN.

CLAIM #3

ON APRIL 17TH, 2010 BOTH DEFENDANT(S) OFFICERS J. BARRETT AND R. GIBSON WERE NEGLIGENT (VIA) "DELIBERATE INDIFFERENT" WHEN THEY STOOD BY CONSCIOUSLY AND WATCHED THEIR CO-WORKER "RICKY FANNIN"

CLAIM #3, CONTINUED

deliberately TAKE the "REC-CAGE LOCK" completely off of PLAINTIFF REC-CAGE with the sole intent to ASSAULT AND ATTACK PLAINTIFF KEVIN CANADA #1050088. Both OFFICERS J. BARRETT AND R. GIBSON ARE PRECOGNITIVE of the SECURITY PROTOCOL AND KNOW THAT SEGREGATION-PRISONERS REC-CAGE, SHOWER-DOORS, AND CELL-DOORS CANNOT BE OPEN UNLESS THAT PRISONER IS HAND-CUTTED AND SHACKLED FIRST. Both OFFICERS J. BARRETT AND R. GIBSON WERE PRECOGNITIVE of the THREATS THEIR CO-WORKER "RICKY FANNIN" WAS MAKING TOWARDS PLAINTIFF BEFORE he took the LOCK off of PLAINTIFF'S REC-CAGE BECAUSE the PLAINTIFF REFUSED to GIVE R. FANNIN some "DICE". Both OFFICERS DEFENDANT J. BARRETT, AND R. GIBSON HAS AN OBLIGATORY duty to protect PLAINTIFF from CRUEL AND UNUSUAL PUNISHMENT, EXCESSIVE FORCE, AND FROM THE

CLAIM #3, CONTINUED

VIOLATION OF "DUE PROCESS" RIGHTS ENTITLED TO PLAINTIFF UNDER THE 8TH, AND 14TH AMENDMENT U.S. CONSTITUTION. BECAUSE OF DEFENDANT(S) J. BARRETT AND R. GIBSON "deliberate indifference" ON APRIL 17TH, 2010 PLAINTIFF WAS ASSAULTED AND ATTACKED BY THEIR CO-WORKER (R. FANNIN) WHICH CAUSED PLAINTIFF TO BE SADISTICALLY AND EXCESSIVELY SHOT IN WHICH HE SUSTAINED A LASCERATION UNDER HIS LEFT EYE CENTIMETERS FROM ALMOST HAVING HIS LEFT-EYE COMPLETELY SHOT OUT, A LASCERATED INNER RIGHT FORE-ARM, A LASCERATED RIGHT HIP, AND A LASCERATED RIGHT-SHIN. HAD DEFENDANT(S) J. BARRETT AND R. GIBSON INTERVENED AND PREVENTED THEIR CO-WORKER "R. FANNIN" PLAINTIFF WOULDN'T HAVE NEVER BEEN ASSAULTED, SHOT, OR ATTACKED [REDACTED] NOR SUSTAINED A LASCERATED LEFT-EYE, RIGHT INNER FORE-ARM, RIGHT-HIP, OR RIGHT SHIN. BUT BECAUSE DEFENDANT(S)

CLAIM #3, CONTINUED

J. BARRETT AND R. GIBSON DIDN'T INTERVENE TO PROTECT PLAINTIFF FROM EXCESSIVE FORCE, CRUEL AND UNUSUAL PUNISHMENT AND THE VIOLATION OF PLAINTIFF'S "DUE PROCESS" THEY WERE AND ARE "DELIBERATE INDIFFERENT" IN VIOLATION OF PLAINTIFF'S 8TH AND 14TH AMENDMENT CONSTITUTIONAL RIGHTS. ACCORDING TO "BUCKNER V. HOLLINS 983, F.2d 121-122"

* FACTS, FOR CLAIM #3

ON APRIL 20, 2010 PLAINTIFF FILED A COMPLAINT [REDACTED] CONCERNING PLAINTIFF NOT BEING PROTECTED FROM EXCESSIVE FORCE, AND CRUEL AND UNUSUAL PUNISHMENT BY DEFENDANT(S) J. BARRETT AND R. GIBSON, HOWEVER THAT COMPLAINT WAS NEVER PROCESSED. PLAINTIFF FILED ANOTHER COMPLAINT ON MAY 10TH, 2010 CONCERNING THE EXACT SAME ISSUES FROM THE UN-PROCESSED COMPLAINT THAT PLAINTIFF FILED ON APRIL 20TH, 2010 REGARDING OFFICERS J. BARRETT AND

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FACTS, FOR CLAIM #3 - CONTINUED

R. GIBSON NEGLIGENT IN ACTIONS ON APRIL 17th, 2010 FOR FAILING TO PROTECT PLAINTIFF FROM EXCESSIVE FORCE AND CRUEL AND UNUSUAL PUNISHMENT. NEVERTHELESS THAT COMPLAINT WASN'T NEVER PROCESSED AS WELL. SO PLAINTIFF FILED A 3RD COMPLAINT ON THE (23RD OF MAY 2010) **SEE EXHIBIT #21** THAT WAS FINALLY PROCESSED AND GIVEN A "109 #02245" REGARDING DEFENDANT(S) J. BARRETT AND R. GIBSON FAILURE TO PROTECT PLAINTIFF ON APRIL 17th, 2010. THIS COMPLAINT #02245 WAS RESPONDED TO BY SGT. TRAVIS HAYE ON JUNE 2ND, 2010 STATING VERBATIM "THIS INCIDENT IS BEING INVESTIGATED". PLAINTIFF THEN FILED A REGULAR GRIEVANCE ON JUNE 8th, 2010 **SEE EXHIBIT #22** TO GRIEVE COMPLAINT #02245 BUT PLAINTIFF GRIEVANCE WAS UN-PROCESSED AND DENIED BY ROSP-GRIEVANCE COORDINATOR R. MULLINS AND F. TAYLOR ON JUNE 11, 2010 AND JUNE 17th, 2010 **SEE THE^{BACK} OF EXHIBIT #22**
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facts, for claim #3 CONTINUED

stating that the "EXPIRED filing PERIOD of 30-days HAS EXPIRED". PLAINTIFF RESUBMITTED "EXHIBIT #22" ATTACHED WITH A REGULAR REQUEST FORM SEE EXHIBIT 23 EXPLAINING TO THE GRIEVANCE COORDINATOR R. MULLINS THAT I COULDN'T FILE A REGULAR GRIEVANCE REGARDING OFFICERS J. BARRETT AND R. GIBSON "DILIBERATE INDIFFERENT NEGLIGENCE" ON APRIL 17th, 2010 UNTIL I RECEIVE A RESPONSE FROM AN INFORMAL COMPLAINT. BEING THAT THE 2-PREVIOUS COMPLAINTS FILED ON APRIL 20th, 2010 AND MAY 10th, 2010 CONCERNING THIS MATTER WAS NEVER PROCESSED PLAINTIFF COULDN'T FILE A REGULAR GRIEVANCE WITHIN THE 30-DAYS OF APRIL 17th, 2010 BECAUSE THE DOP 866.1 VI (A) SECTION # (1) & # (2) SPECIFICALLY STATES "THAT A REGULAR GRIEVANCE CAN NOT BE FILED UNLESS AN INFORMAL COMPLAINT, NOTICE OF CONFISCATION, & UNAUTHORIZED CORRESPONDENCE FORM HAS BEEN FILED OR ATTACHED TO THE GRIEVANCE.

FACTS, FOR CLAIM #3 CONTINUED

THEREFORE PLAINTIFF COULDN'T HAVE FILED A REGULAR GRIEVANCE TO COMPLAINT # 02245 WITHIN THE 30-DAYS EXPIRATION FILING PERIOD BECAUSE HIS 3RD INFORMAL COMPLAINT REGARDING DEFENDANT(S) R. GIBSON AND J. BARRETT'S NEGLIGENCE ON APRIL 17TH, 2010 WASN'T PROCESSED UNTIL MAY 25TH, 2010, AND RESPONDED TO UNTIL JUNE 2, 2010 DUE TO NO FAULT OF THE PLAINTIFF SO PLAINTIFF APPEALED THIS WRONGFUL DENIAL TO PROCESS PLAINTIFF'S REGULAR GRIEVANCE DATED 6-8-10 TO THE "REGIONAL OMBUDSMAN" SEE EXHIBIT #24 ON 6-18-10 TO HAVE ROSP GRIEVANCE COORDINATORS R. MULLINS AND F. TAYLOR'S DECISION NOT TO PROCESS PLAINTIFF'S GRIEVANCE FILED ON 6-8-10 OVERTURNED BECAUSE THE FAILURE TO FILE THIS GRIEVANCE WITHIN THE 30-DAYS FILING PERIOD WAS DUE TO NO FAULT OF HIS. REGIONAL OMBUDSMAN K. CROWDER-AUSTIN

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FACTS, FOR CLAIM #3 CONTINUED

RESPONDED BACK TO THIS APPEAL
"SEE BACK OF EXHIBIT #22" ON
JUNE 22ND, 2010 UPHOLDING
ROSP GRIEVANCE COORDINATOR
R. MULLIN'S WRONGFUL DENIAL
TO PROCESS PLAINTIFF'S REGULAR
GRIEVANCE FILED ON 6-8-10.
SO ON JULY 14TH, 2010 PLAINTIFF
APPEALED REGIONAL OMBUDSMAN
R. CROWDER-AUSTIN TO THE
REGIONAL DIRECTOR JOHN GARMAN
(VIA) LETTER "SEE EXHIBIT # 25"
HOWEVER THIS LETTER WAS INTERCEPTED
BY THE REGIONAL OMBUDSMAN
R. CROWDER-AUSTIN AND RESPONDED
TO. THEREFORE PLAINTIFF WAS
CIRCUMSCRIBED FROM EXHAUSTING HIS
INSTITUTIONAL REMEDIES DUE TO NO
FAULT OF HIS AS PROVEN IN
EXHIBITS #21 - THRU - #25 BECAUSE
PLAINTIFF MADE NUMEROUS OF
VALID ATTEMPTS TO EXHAUST HIS
INSTITUTIONAL REMEDIES CONCERNING
DEFENDANT(S) J. BARRETT AND
R. EIBSON "DELIBERATE INDIFFERENT"
NEGLIGENCE ON APRIL 17TH, 2010.

* RELIEF REQUESTED

WHEREFORE, PLAINTIFF REQUESTS THAT THE COURT GRANT THE FOLLOWING RELIEFS:

A) ISSUE A "PRELIMINARY INJUNCTION" IMMEDIATELY TO HAVE PLAINTIFF KEVIN A. CANADA #1050088 TRANSFERRED TO A SAFER INSTITUTION WHERE HE'S NOT ASSAULTED, THREATENED, AND HAVING HIS SHOWERS, FOOD TRAYS AND RECREATION VINDICTIVELY AND RETALIATORILY CANCELLED.

#1. BECAUSE EVERY SINCE THIS APRIL 17TH, 2010 INCIDENT OCCURRED THAT CAUSED OFFICER "RICKY FANNIN" TO GET "FIRED" FOR TAKING PLAINTIFF'S LOCK OFF HIS REC-CAGE FOR SADISTICALLY AND ASSAULTIVELY ATTACKING HIM. PLAINTIFF HAS BEEN IN FEAR FOR HIS LIFE AND SAFETY (VIA) THREATS, ASSAULTS, BOGUS AND VINDICTIVE CANCELLATION OF HIS RECREATION, SHOWERS, AND FOOD TRAYS BY R. FANNIN CO-WORKERS.

RELIEF REQUESTED, CONTINUED

#2. PLAINTIFF HAS FILED NUMEROUS OF COMPLAINTS, AND GRIEVANCES SEE EXHIBITS #26, #27, #28 & #29 COMPLAINING ABOUT THESE RETALIATORY THREATS, VINDICTIVE CANCELLATION OF MY SHOWERS, RECREATION AND FOOD TRAYS TO HIGHER AUTHORITIES HERE AT (ROSP) BUT THESE COMPLAINTS AND GRIEVANCES GOES UNFOUNDED BECAUSE WARDEN, TRACY RAY, AND ROWLETTE, CAPTAINS AND MAJOR, LARRY FLEMING CONTENTS THAT I'M FABRICATING THESE THREATS AND THE VINDICTIVE CANCELLATION OF MY RECREATION, SHOWER & FOOD TRAYS JUST TO OBTAIN A TRANSFER. AND BECAUSE OF THESE WRONGFUL MISCONCEPTION THESE THREATS, VINDICTIVE CANCELLATION OF MY REC, SHOWERS AND FOOD TRAYS SUBSIST.

#3 THEREFORE PLAINTIFF IS CONSTANTLY IN FEAR OF HIS LIFE AND SAFETY BECAUSE R. FANNIN CO-WORKER ARE PERPETUALLY THREATEN TO RETALIATE

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RELIEF REQUESTED, CONTINUED

#3. AGAINST PLAINTIFF OVER THE FACT THAT R. FANNIN GOT "FIRED" FOR ASSAULTING AND ATTACKING PLAINTIFF R. FANNIN CO-WORKER'S HERE AT (ROSP) STATES OVER AND OVER VERBATIM THAT "SOON AS THIS MATTER BLOWS OVER WE ARE GOING TO SET YOU UP TO GET YOUR ASS BEAT FOR CAUSING (RICKY) TO LOOSE HIS JOB, BECAUSE WE OFFICERS ALL STICK TOGETHER WRONG OR RIGHT IN THESE MOUNTAINS BECAUSE JOBS ARE SCARCE."

#4. PLAINTIFF CANT TAKE THESE CONSTANT THREATS LIGHTLY BECAUSE (ROSP) HAS AN EGRESSIVE AND WELL DOCUMENT HISTORY OF RETALIATING AGAINST PRISONERS, PLUS PLAINTIFF WAS JUST A VICTIM OF THESE SADISTIC, EXCESSIVE AND UNJUSTIFIABLE ASSAULTIVE ATTACKS. BY 4-VINDICTIVE AND ASSAULTIVE OFFICERS. SO PLAINTIFF IMMEDIATELY REQUEST A TRANSFER TO A SAFER PRISON WHERE HE'S FREE FROM ASSAULTS AND THREATS BY VINDICTIVE OFFICERS.

B. AWARD COMPENSATORY DAMAGES JOINTLY AND SEVERALLY AGAINST:

- #1. DEFENDANT OFFICER RICKY FANNIN FOR THE PAIN AND SUFFERING ENDURED FROM THE ASSAULT AND GUN-SHOT WOUNDS THAT WAS SADISTICALLY AND EXCESSIVELY INFLICTED UPON PLAINTIFF DUE TO R. FANNIN'S ASSAULTIVE AND SADISTIC ATTACK AGAINST PLAINTIFF ON APRIL 17th, 2010.
- #2. DEFENDANT OFFICER J. NALE FOR THE PAIN AND SUFFERING ENDURED WHEN PLAINTIFF WAS WRONGFULLY, SADISTICALLY AND EXCESSIVELY SHOT IN THE FACE, INNER RIGHT FOREARM, RIGHT HIP AND RIGHT SHIN WHILE DEFENDING HIMSELF AGAINST OFFICER RICKY FANNIN SADISTIC AND ASSAULTIVE ATTACK. DEFENDANT J. NALE OBSERVED HIS CO-WORKER RICKY FANNIN DELIBERATELY TAKE THE LOCK OFF PLAINTIFF REC-CAGE WITH THE SOLE INTENT TO ASSAULT AND ATTACK THE PLAINTIFF. HOWEVER J. NALE STILL SADISTICALLY AND EXCESSIVELY SHOT THE PLAINTIFF ANYWAY WHO POSED NO THREAT TO SECURITY OR NO ONE ELSE.

AWARD COMPENSATORY DAMAGES, CONTINUED

#3. DEFENDANT OFFICER R. GIBSON who CONSCIOUSLY stood by and watched his CO-WORKER RICKY FANNIN deliberately take the COCK OFF of PLAINTIFF REC-CAGE AND ASSAULTIVELY AND EXCESSIVELY ATTACKED PLAINTIFF "KEVIN CANADA" THAT CAUSED THE PLAINTIFF TO SUSTAIN INJURIES TO his LEFT-EYE UNDERNEATH, RIGHT HIP, RIGHT INNER FORE ARM, AND RIGHT SHIN IN WHICH PLAINTIFF IS STILL SUFFERING FROM. had DEFENDANT R. GIBSON would HAVE INTERVENED AND STOP his CO-WORKER RICKY FANNIN from this ASSAULTIVE AND [REDACTED] SADISTIC ATTACK PLAINTIFF WOULD HAVE NEVER SUSTAINED THESE SERIOUS INJURIES.

#4. DEFENDANT J. BARRETT who CONSCIOUSLY stood by and watched his CO-WORKER RICKY FANNIN deliberately take the COCK OFF of PLAINTIFF REC-CAGE AND ASSAULTIVELY AND EXCESSIVELY ATTACKED PLAINTIFF "KEVIN CANADA" THAT

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AWARD COMPENSATORY DAMAGES, CONTINUED

#4. THAT CAUSED THE PLAINTIFF TO SUSTAIN INJURIES TO HIS LEFT-EYE UNDER-NEATH, RIGHT HIP, RIGHT INNER FOREARM, AND RIGHT SHIN, IN WHICH PLAINTIFF IS STILL SUFFERING FROM. HAD DEFENDANT ■ J. BARRETT INTERVENED AND STOPPED HIS CO-WORKER RICKY FANNIN FROM THIS ASSAULTIVE AND SADISTIC ATTACK PLAINTIFF WOULDN'T HAVE NEVER SUSTAINED THESE SERIOUS INJURIES.

C. AWARD COMPENSATORY DAMAGES IN THE FOLLOWING AMOUNTS:

#1. \$50,000 JOINTLY, AND SEVERALLY AGAINST DEFENDANT(S) "RICKY FANNIN, J. NAJE, J. BARRETT, AND R. GIBSON FOR THE SERIOUS INJURIES PLAINTIFF SUSTAINED AS A RESULT OF BEING SHOT MULTIPLE TIMES, ASSAULTED AND BEING SUBJECTED TO EXCESSIVE FORCE IN VIOLATION OF PLAINTIFF'S 8th AND 14th AMENDMENT U.S. CONSTITUTIONAL RIGHTS.

AWARD COMPENSATORY DAMAGES IN THE FOLLOWING AMOUNTS, CONTINUED

#2. \$10,000 BECAUSE PLAINTIFF HAS SUSTAINED IRREVERSIBLE DAMAGE TO HIS LEFT-EYE FROM BEING SHOT UNDER NEATH, his LEFT-EYE IN WHICH PLAINTIFF HAD TO BE ISSUE GLASSES FOR AND STILL HAVE PROBLEMS WITH.

#3. \$10,000 BECAUSE PLAINTIFF HAS SUSTAINED A PERMANENT SCARS ON HIS RIGHT INNER FOREARM, AND RIGHT HIP IN WHICH PLAINTIFF IS STILL EXPERIENCING VIVID PAIN FROM SPORADICALLY.

D. AWARD PUNITIVE DAMAGE IN THE FOLLOWING AMOUNTS:

#1. \$20,000 EACH AGAINST DEFENDANT(S) J. WATKINS, RICKY FANNIN, R. GIBSON, AND J. BARRETT FOR THE DELIBERATE AND SADISTIC VIOLATION OF PLAINTIFF'S 8th, AND 14th U.S. CONSTITUTIONAL RIGHTS.

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E.

GRANT SUCH OTHER RELIEFS AS
IT MAY APPEAR THAT PLAINTIFF
IS ENTITLED TO:

9-21-2010

DATE:

Kelvin Canada

#1050088

RESPECTFULLY,
submitted

KELVIN A. CANADA #1050088

RED OXION STATE PRISON

P. O. BOX #1900

POUND, VIRGINIA 24279

SWORN TO BEFORE ME THIS 21st
DAY of September, 2010

NOTARY PUBLIC: *[Signature]*

MY COMMISSION EXPIRES ON:
10-31-2011

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CERTIFICATE of SERVICE

I, KEVIN A. CANADA #1050088
HEREBY MAILED (VIA) 1st CLASS MAIL
A 36-PAGE "U.S.C #42, 1983
CIVIL RIGHTS COMPLAINT" ALONG WITH
"29-EXHIBITS" PERTAINING TO THE
APRIL 17th, 2010 INCIDENT TO:

JOHN F. CORCORAN, CLERK
UNITED STATES DISTRICT COURT
OFFICE OF THE CLERK
P.O. BOX # 1234
ROANOKE, VIRGINIA
24006-1234

ON SEPTEMBER 21st, 2010
TO BE PROCESSED:

KEVIN A. CANADA #1050088
RED UNION STATE PRISON
P.O. BOX #1900
POWDER, VIRGINIA 24279

SWORN TO BEFORE ME THIS 21st
DAY of September 2010.

NOTARY PUBLIC: *[Signature]*
MY COMMISSION EXPIRES ON: 10-31-2011
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